UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,010	03/05/2002	Eric D. Bloch	LZLO-01001US0	7583

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EXAMINER
AILES, BENJAMIN A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. *10/092,010*	Applicant(s) BLOCH ET AL.	
	Examiner BENJAMIN AILES	Art Unit 2442	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>06 April 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1,4-11,13-17,19-24,27,28,30-33,36-58,60-62,64,65,67-70 and 73-83*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

  /Andrew Caldwell/
  Supervisory Patent Examiner, Art Unit 2442

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 06 April 2009 have been considered but are not deemed persuasive. The examiner has maintained the rejections set forth in the final office action mailed 21 January 2009.

Claim 1

With respect to claim 1, applicant argues (a) the cited art does not teach "said mark-up language description includes one or more source files which describe behavior of said particular content on a user interface of said user device based on user interactions with the particular content via the user interface" and (b) the cited art does not teach "compiling…to create executable code" The examiner respectfully disagrees.

(a) The examiner submits that Tuli teaches within the scope of the claim. Tuli teaches the aspect of "behavior of the particular content on a user interface of a user device based on user interactions with the particular content via the user interface" wherein Tuli teaches in column 2, lines 11-12 the utilization of a browser window with a displayable area in a user's device. Further, in column 2, line 64 - column 3, line 19, a user utilizes a pointing device that allows the user to click on specified areas in the browser window of the user's device. As the user clicks on portions of the browser window, a message is sent and it is determined if the user had pressed an area that represents a link or a text box. The claim language requires a response to a user interaction with a user interface. It is maintained that the pointing device's interaction with the user's device is deemed within the scope of a user interaction with the user interface. The behavior is based on user interactions which are determined by a server, as determined within the scope of the claim.

(b) The examiner submits that Tuli teaches within the scope of the claim. Tuli teaches in column 2, lines 5-13 the utilization of a browser translator that processes code in HTML, Java, etc. The code is processed and prepared specifically for the user device to be displayed on the browser window of the user device. For the information processed to work at all, some sort of code must be provided to the user's device to work properly. Therefore, Tuli's method of providing information to the user device as described in column 2, lines 5-13 is determined to be within the scope of applicant's clamed "a mark-up language description of particular content…to create executable code for a user device."

Claim 5

With respect to claim 5, applicant argues (c) that "If Tuli had a full featured browser which could process ActionScript within a Flash player, it would not need to translate web pages to bit map data before sending it to the client device."

(c) The examiner submits that the rejection of claim 5 is proper. The examiner submits that it would have been obvious to implement Tuli's browser translator to include ActionScript in view of what was well-known in the art at the time of the applicant's invention. As evidence, the examiner references the US PreGrant Publication to Harrington (US 2002/0156909 A1) which describes the common usage of ActionScript within a Flash player in a browser. See for example Paragraph 0055. Therefore, it is maintained by the examiner that the utilization of ActionScript in the art is considered an old and well-known concept for web browsing technology.

Claim 81

With respect to claim 81, applicant argues (d) that "there is no mention that an object which identifies the format is provided via a user interface."

(d) The examiner submits that the rejection of claim 81 is proper. Claim 81 requires the format of media content to be presented via a user interface. Tuli teaches in column 4, lines 18-22 the presentation of an image to a user device. The image is deemed within the scope of media content and therefore Tuli is found to teach within the scope of the claim.

Claim 4

With respect to claim 4, applicant argues (e) that there is no motivation to combine Rubin with Tuli.

(e) The examiner submits that the combination of Rubin with Tuli is proper. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Davis's method of calling an application from a previously downloaded webpage could be used with Tuli's method of compiling code at a server rather than at the client. After Davis's webpage is downloaded with Tuli's system, Davis's webpage would call the secondary application and Tuli's system would then proceed to locate and compile that secondary application for presentation to the client. The motivation for doing so would have been to allow the users of Tuli's system to be able to utilize content of the type described in Davis on a thin-client device (col. 1, ll. 14-18). Therefore it would have been obvious to combine Davis with Tuli for the benefit of utilizing more complex content on a thin-client device.

Claim 52

With respect to claim 52, applicant's argument is deemed to be a mere allegation of patentability. The applicant has not pointed out what they believe to distinctly be patentable over the prior art of record. The rejection of claim 52 should therefore be maintained.

Claims 60 and 62

With respect to claims 60 and 62, the examiner maintains that Tuli in view of what was known in the art teaches the utilization of animation and further SWF files. Tuli teaches the use of a browser to display data on a user's device (col. 1, ll. 38-41) but does not explicitly teach the displaying of .SWF files. One of ordinary skill in the art at the time of the applicant's invention to implement the browser to display .SWF files because .SWF files were old and well known in the art. One of ordinary skill in the art would have been motivated to use .SWF files because of the common usage within web browsing.

Claims 8 and 51

With respect to claims 8 and 51, applicant argues (f) that the cited art does not teach "accessing media content comprising at least one of audio, video and a movie."

(f) The examiner submits that the rejection of claims 8 and 51 are proper. As set forth in the rejection, Harrington teaches on the aspect of displaying at least a movie in the form of a Flash player utilizing ActionScript code. One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to implement a Flash method with Tuli to enable the displaying of movie content. One of ordinary skill would have been motivated because of the common usage of Flash player methods in web browsing environment for a client device as taught by Harrington (see Abstract and para. 0055).

Claim 10

With respect to cliaim 10, applicant argues (g) that the cited art does not teach "a media file is transcoded."

(g) The examiner submits that the rejection of claim 10 is proper. With respect to applicant's argument that Tuli does not perform transcoding, the examiner respectfully disagrees. Tuli teaches the transcoding of media content in column 2, lines 25-29 wherein Tuli teaches the alteration of content that is to be displayed on a user's device. Content is sent to a program for division and changed appropriately so that the user's display can display the content in the appropriate manner. Therefore, the manipulation of data by Tuli is deemed within the scope of the applicant's aspect claim of "transcoding".

The remaining claims are not found patentable for the same reasons set forth above with respect to arguments a-g

BAA